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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,669	11/18/2003	Jerome Glasser		4813

40232 7590 04/12/2007
 JEROME GLASSER
 16 SUNSET TERRACE
 MAPLEWOOD, NJ 07040

EXAMINER

SANDY, ROBERT JOHN

ART UNIT	PAPER NUMBER
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3677

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/715,669

Applicant(s)

GLASSER, JEROME

Examiner

Robert J. Sandy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Approved drawing sheets.

DETAILED ACTION

This is a **final** Office action responsive to the reply filed on 18 December 2006.

- Claims 1-32 have been canceled.
- Claims 33-43 were added.
- Claims 33-43 are pending.

Claim Objections

Claims are objected to because of the following informalities:

In each of the claims 33, 35, 37, 40 and 42, the term "spacial" should be changed to - - spatial - -.

In claim 33, line 7, for proper grammar, the phrase "each other" should be changed to - - to each other - -.

In claim 33, line 13, the phrase "means for the joined said first and second substantially planar members" should be changed to read as - - means for the joined first and second substantially planar members" - - .

In claim 37, line 13, the phrase "means for the joined said first and second substantially planar members" should be changed to read as - - means for the joined first and second substantially planar members" - - .

In claim 42, line 13, the phrase "means for the joined said first and second substantially planar members" should be changed to read as - - means for the joined first and second substantially planar members" - - .

In claim 42, line 2, "A" should be changed to - - a - -.

Appropriate correction is required.

Double Patenting

Each of claims 37 and 42 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 33. Applicant is advised that should claim 33 be found allowable, claims 37 and 42 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Specification

The amendment filed on 22 July 2005 is objected to under 35 U.S.C. 132(a) because it introduces **new matter** into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows, and deemed as new matter:

The original disclosure provided no support for the brief description of (new) Fig. 49 (formerly original Fig. 57) regarding the added text of “permitting the joining of a front and back plate at a hub without glue or sonic welding.”

The original disclosure provided no support for the brief description of (new) Fig. 53 (formerly original Fig. 61) regarding the subject matter pertaining to the added underlined text of “NFIG. 53 is a perspective view of a back plate of clamp-like clip with a tack hole.”

The original disclosure provided no support for the brief description of (new) Fig. 54 (formerly original Fig. 62) regarding the subject matter pertaining to the added underlined text of “NFIG. 54 is the embodiment of NFIG. 53- without tack hole and holding a card-like display item.”

The original disclosure provided no support for the added subject matter pertaining to the underlined text between and including the paragraph on beginning on line 17 of “Page 11 of 13” and the paragraph ending on line 20 of “Page 12 of 13” of the “marked-up” substitute Specification filed on 20 December 2005.

The original disclosure provided no support for the claimed subject matter in claim 34 where the sonic weld “is a radio frequency-type sonic weld”.

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The original disclosure provided no support for the claimed subject matter in claim 35 pertaining to the “a partially textured surface”.

The original disclosure provided no support for the claimed subject matter in claim 40 pertaining to the “a snap-type means”.

Applicant is required to cancel the new matter in its entirety in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 34, 35, 40, and 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed new matter not supported in the original disclosure pertains to:

“a radio frequency-type sonic weld” (claim 34); “a partially textured surface”(claim 35); “a snap-type means” (claim 40); and “repositionable glue” and “removably affixed covering is made of paper” (claim 41).

Claims 33-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In each of claims 33, 37, and 42, recitation of the phrase “substantially fully” is indefinite since it is not understood how the “front and back surfaces are” substantially” and “fully” in contact with”. In concept, it would appear that the condition of being “*fully in contact*” would negate the condition of being *substantially in contact*. Therefore, recitation of “substantially fully in contact...” is indefinite since it is not understood what structural requirement is meant by “substantially fully”.

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In claim 35, line 4, recitation of "said substantially planar surface" renders the claim(s) indefinite for not distinguishing between the "first substantially planar surface" or the "second substantially planar surface" established in base claim 1. Furthermore, the phrase "a said" is improper.

In claim 38, line 4, the term "like" included in the limitation regarding "a glue-like element" is indefinite since it is not understood what structural requirement is required by "a glue-like element".

In claim 40, line 3, the term "like" included in the limitation regarding "a snap-like element" is indefinite since it is not understood what structural requirement is required by "a snap-like element".

In claim 41, line 2, there is no antecedent basis for "said glue-like element".

In claim 41, line 3, there is no antecedent basis for "said removably affixed paper".

In claim 41, line 4, recitation of "said substantially planar surface" renders the claim(s) indefinite for not distinguishing between the "first substantially planar surface" or the "second substantially planar surface" established in base claim 1. Furthermore, the phrase "a said" is improper.

In claim 43, line 5, there is no antecedent basis for "said interior walls". Furthermore, claim 43 is indefinite since there is no antecedent basis for "said interior walls".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33, 34, 37, 42 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Fusillo (U.S. Patent No. 5,473,796). Fusillo ('796) discloses a device (10, see Fig. 10) capable of holding a plurality of items for display, comprising:

a first substantially planar member (top portion having jaw portions 12) having a front surface (top-exterior surface) and a back surface (interior surface opposite the top-exterior surface);

a second substantially planar (lower portion having jaw portions 14) member having a front surface (bottom-exterior surface) and a back surface (inner surface opposite the bottom exterior surface);

at least four substantially straight and smooth edges (edges along free ends of jaws 12) having a predetermined thickness, at least a front surface (one side surface of two side surfaces of a respective jaw member 12) and a back surface (second side surface of the two side surfaces of the respective jaw member 12) and lying in the same plane at right angles to each other, situated at 90 degree intervals in perpendicular relation each other, thereby forming a cruciform configuration having a central hub (28), and whose said front and back surfaces are respectively substantially fully in contact with at least a surface of either said first and second substantially planar members, forming, as a result, a [spatial] area (respective throat openings 34) between said first and second substantially planar members for receiving at least one item to be introduced therein;

means for joining (respective hinge members 40) said first and second substantially planar members;

means for the joined said first and second substantially planar members to exert an interiorly directed pressure (pressure exerting means provided by the clamping of respective jaw pairs 12 and 14) on said at least one item when said at least one item is introduced into said [spatial] area;

(concerning claim 34) said first substantially planar member is of plastic ("plastic"; col. 7, lines 34-35); said second substantially planar member is of plastic ("plastic"); said at least four substantially straight and smooth edges are integrally molded with at least a surface of one of said substantially planar members; said means for the exertion of interiorly directed pressure by the joined said first and second substantially planar members is a gradiented, sloping area formed on at least one interiorly facing surface (interior surface adjacent to teeth 38 of respective jaw member 12) of one of said substantially planar members, having a low end (low at thicker portion of respective jaw member 12) of the slope substantially at the exterior border edge of

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said gradiented substantially planar member [limitation directed to "said means for joining said first and second substantially planar members is a radio frequency-type sonic weld" is a product-by-process claim limitation, where the process relied upon is "a radio frequency-type sonic weld". This limitation has not been given any patentable weight since Fusillo meets the structural requirements of the claim. "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)]; and

(concerning claim 43, so far as definite) a unitary, substantially planar member having an interior crevice (36) defining a first holding planar member (top portion having 12) and a second holding planar member (bottom portion having 14); said crevice being deep enough to permit the insertion of an item; said interior walls of said crevice being substantially smooth and having interior walls at 90-degrees in relation to each other

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 35 and 36, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fusillo ('796). Fusillo further discloses wherein said means for the exertion of

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interiorly directed pressure includes at least a partially textured surface (i.e., via teeth 38) on an interiorly facing surface of a said substantially planar member in order to impart an enhanced friction on said at least one item when said at least one item is introduced into said spacial area; and wherein said hub has a central aperture (between hinge portion therein). However, Fusillo ('796) does not disclose wherein said first substantially planar is of translucent plastic. It would have been an obvious matter of design choice to one of ordinary skill in the art to have had the plastic material of the Fusillo device to be of a translucent plastic for merely aesthetic purposes.

Response to Amendment

Applicant's arguments with respect to claims 33-43 have been considered but are moot in view of the new ground(s) of rejection which were necessitated by applicant's amendment.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

Allowable Subject Matter

The indicated allowability of claims 2 and 3, indicated in the prior Office action mailed 02/22/2005, is withdrawn in view of applicant not presenting the respective claims in rewritten form according to the indication set forth in the prior Office action. The prior Office stated: "Claims 2 and 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims." The current pending claims do not include the rewritten claim language.

A determination of patentability to claims 40 and 41 cannot be determined in view of the rejection under 35 U.S.C. 112, first paragraph, set forth in this Office action.

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**ROBERT J. SANDY
PRIMARY EXAMINER**

Robert J. Sandy
Primary Examiner
Art Unit 3677



REPLACEMENT SHEET

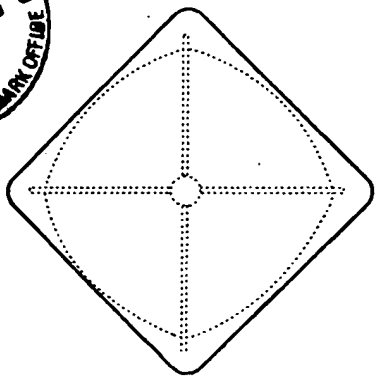


FIG. 1

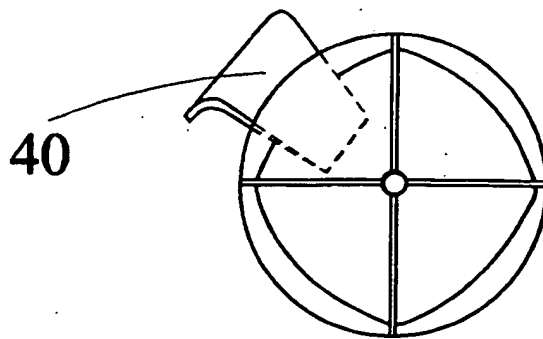


FIG. 2

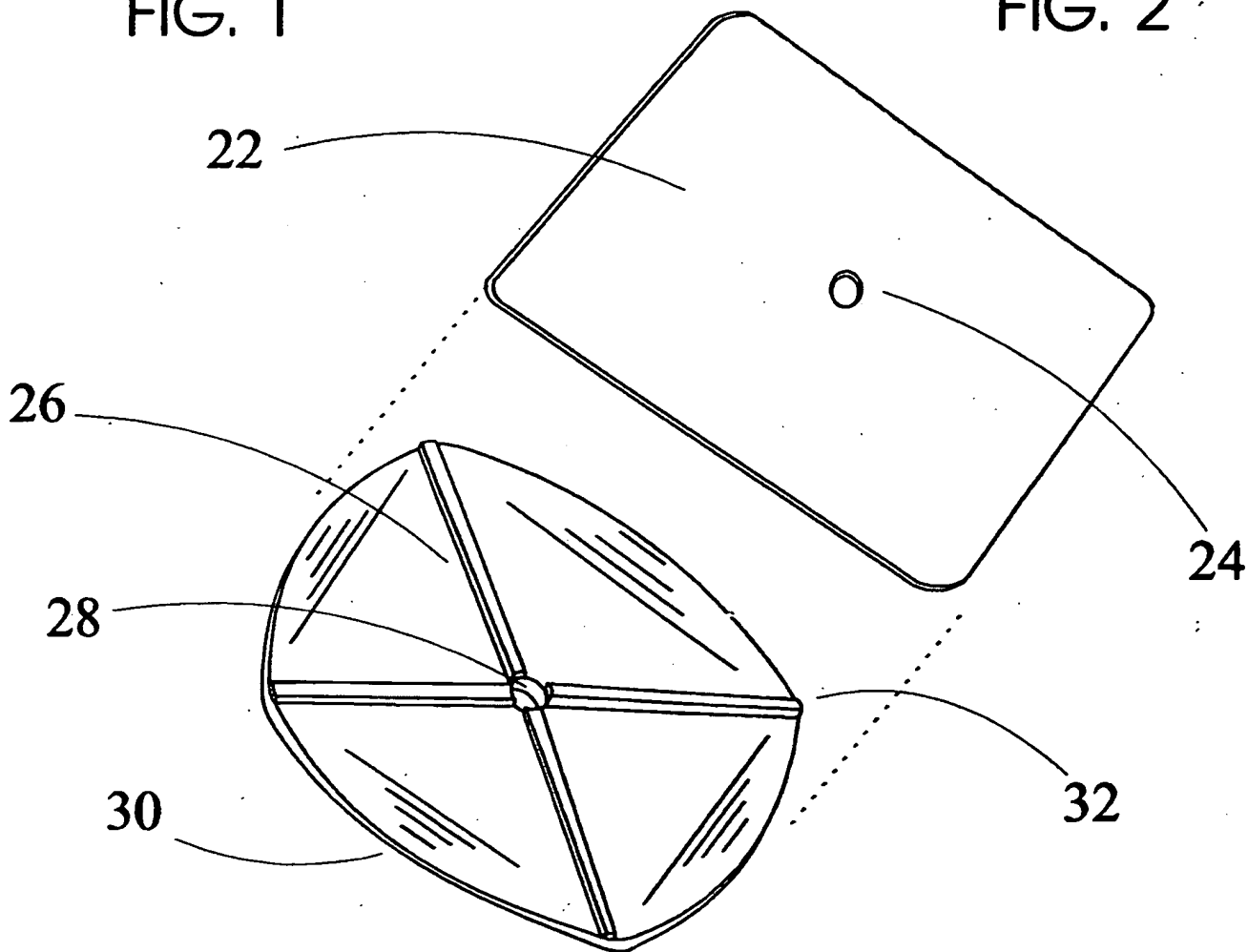


FIG. 3

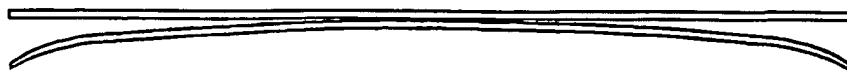


FIG. 4

Approved/Refuted: 4/9/2007

REPLACEMENT SHEET

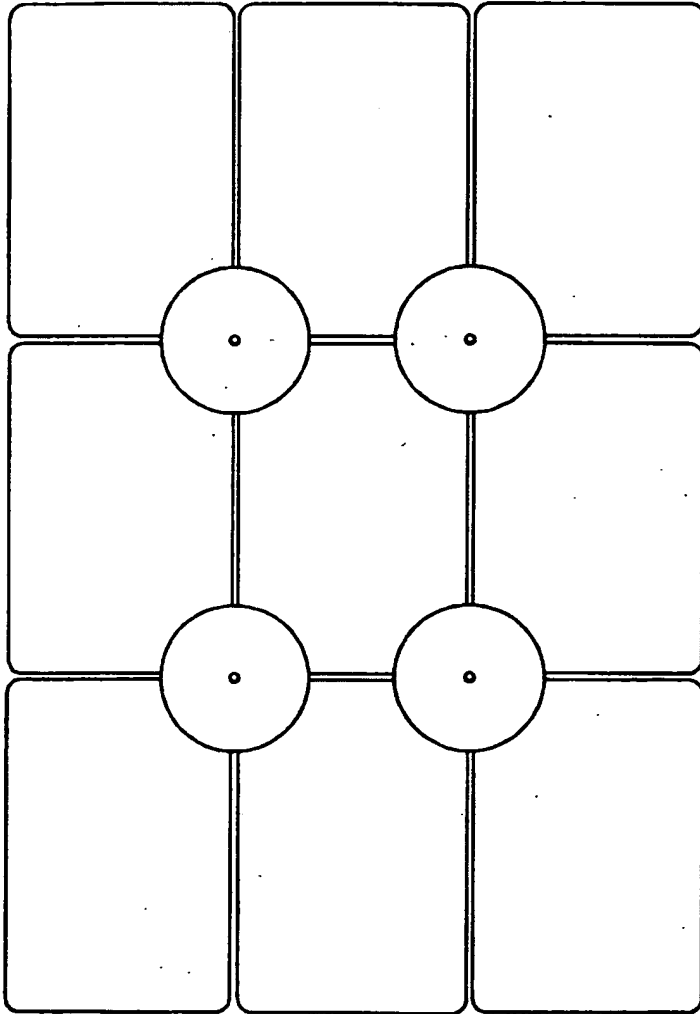


FIG. 5

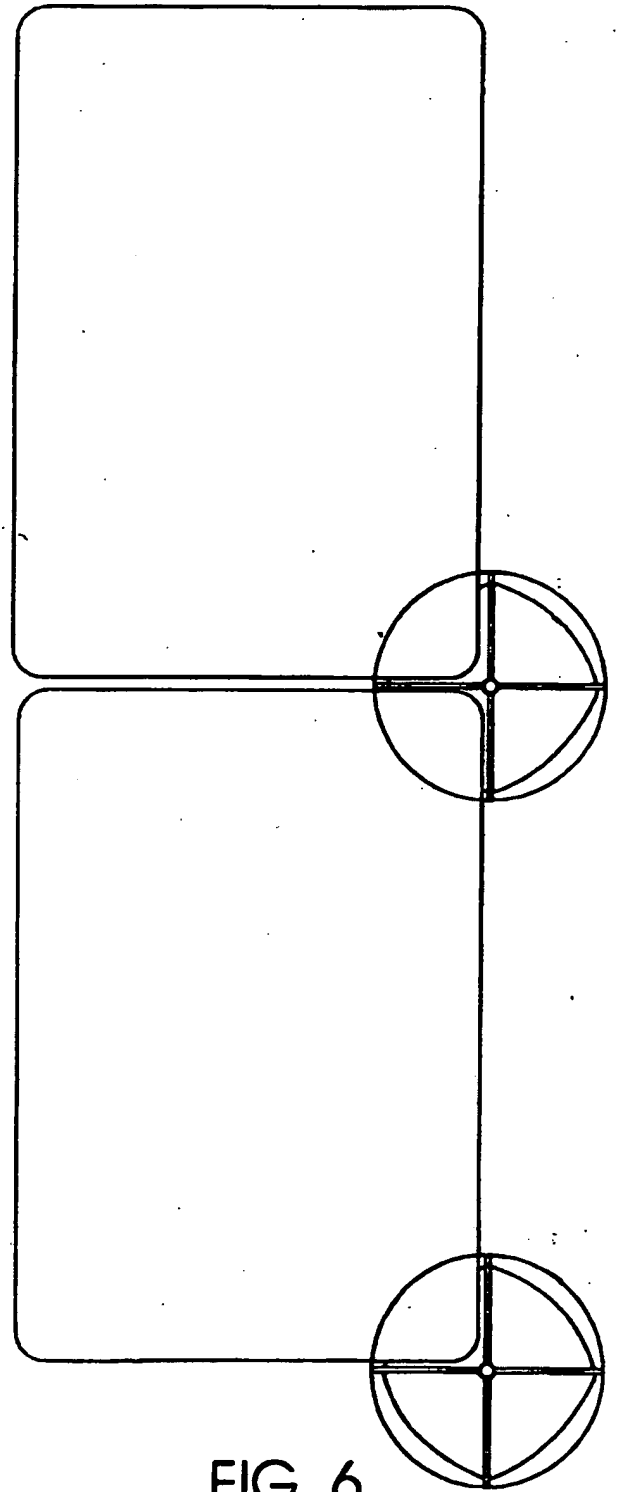


FIG. 6

Approved: *[Signature]* 2/9/2007

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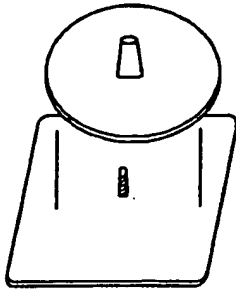


FIG. 7

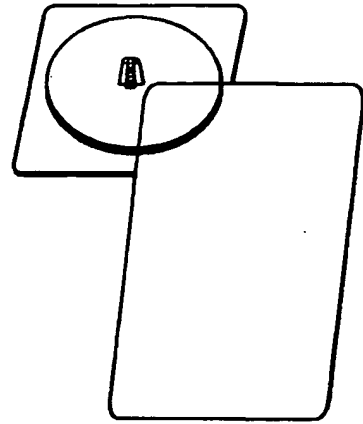
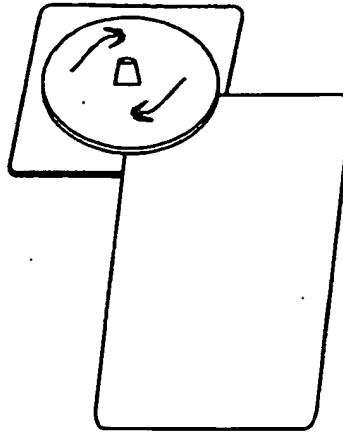


FIG. 8

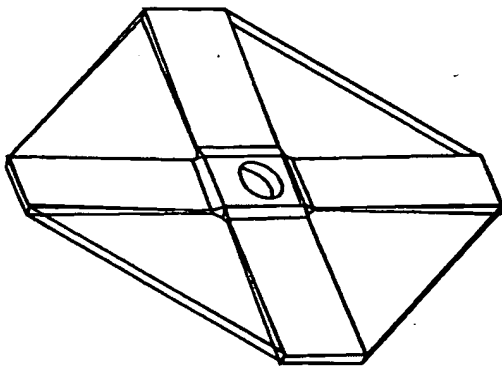


FIG. 9

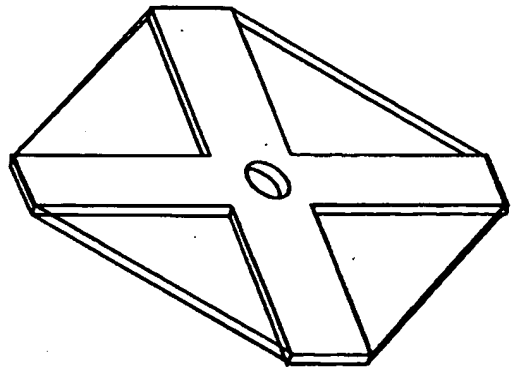


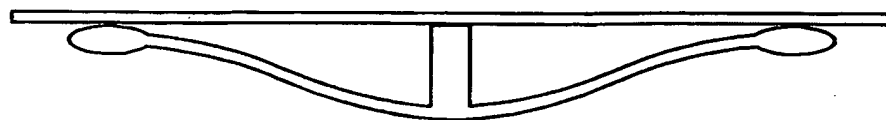
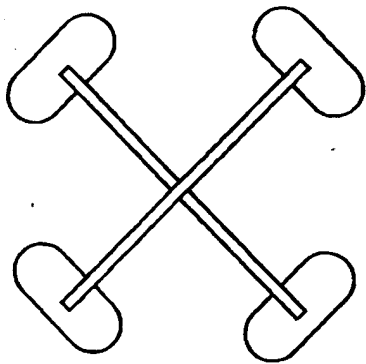
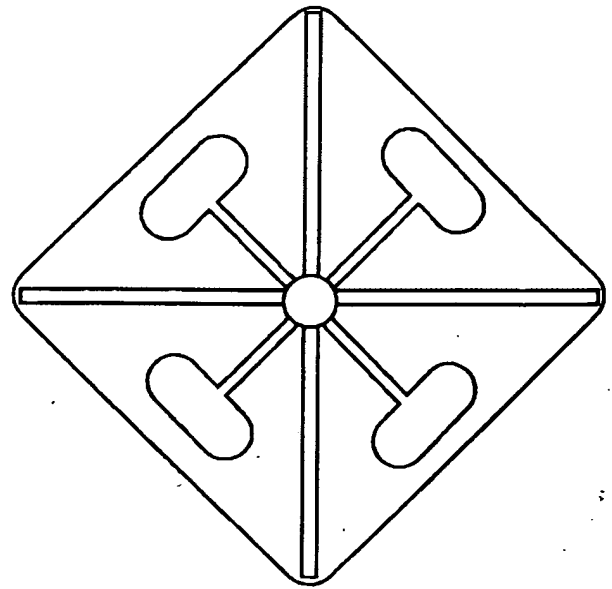
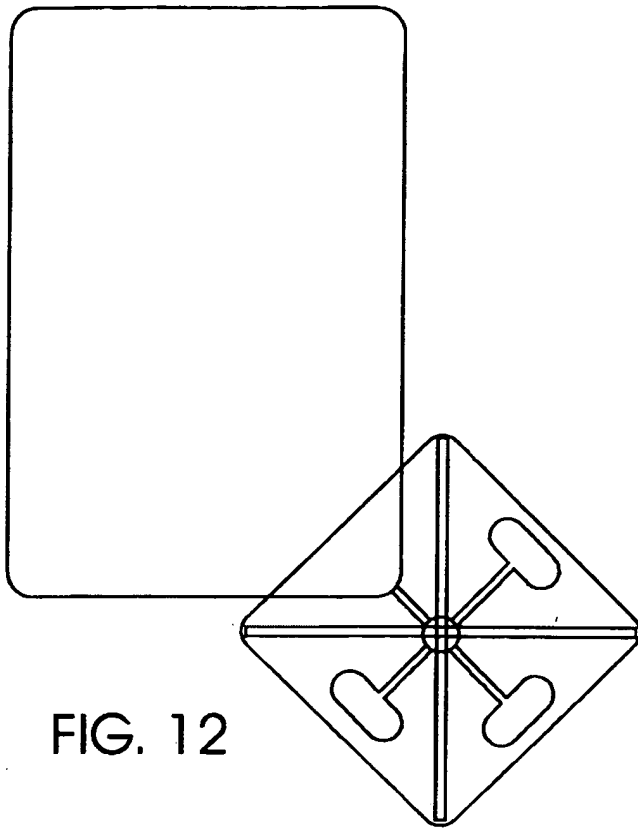
FIG. 10



FIG. 11

Approved: [Signature]; 2/19/2007

REPLACEMENT SHEET



Approved: [Signature] 2/12/2007

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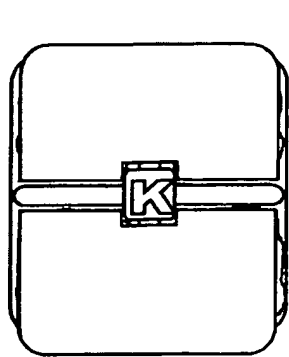
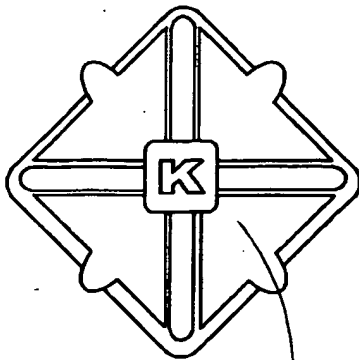
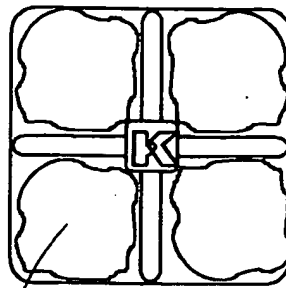


FIG. 18



34



36

FIG. 19

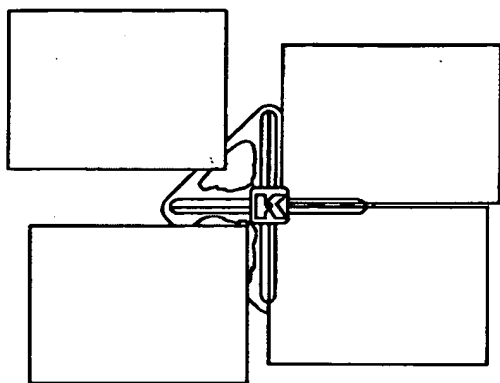


FIG. 20

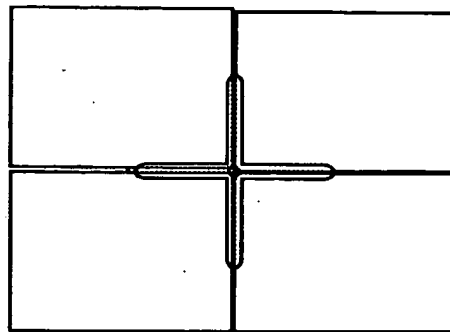
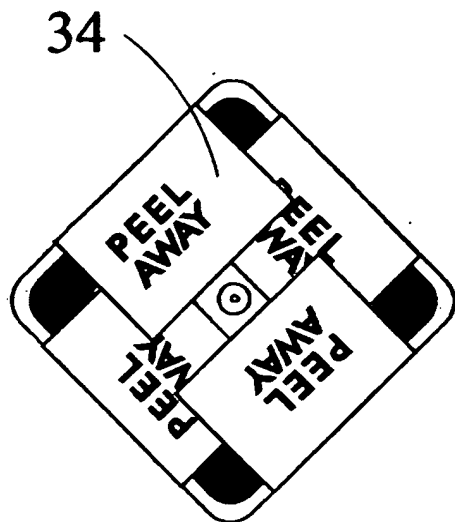
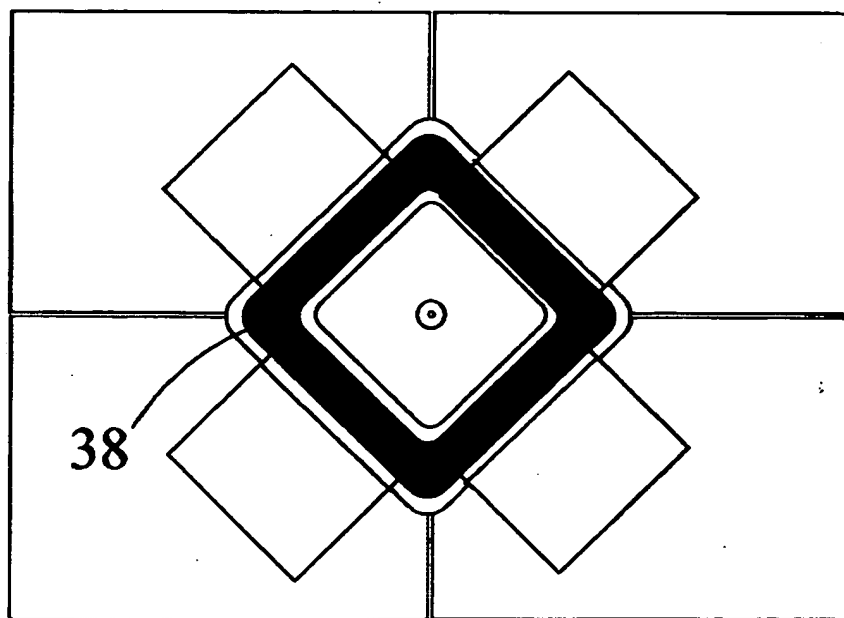


FIG. 21



34

FIG. 22



38

FIG. 23

Colgate Supply Forward of A

REPLACEMENT SHEET

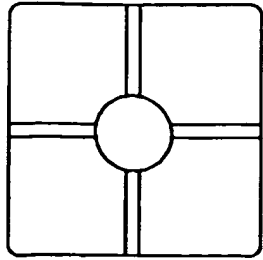


FIG. 24

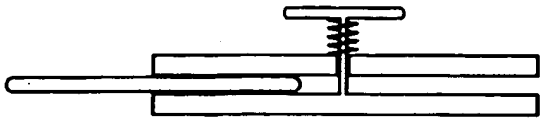


FIG. 25

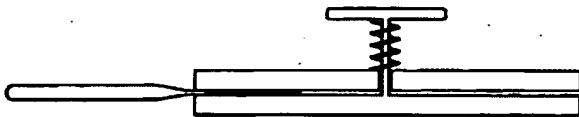


FIG. 26

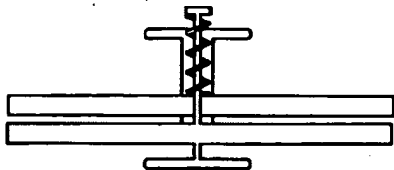


FIG. 27

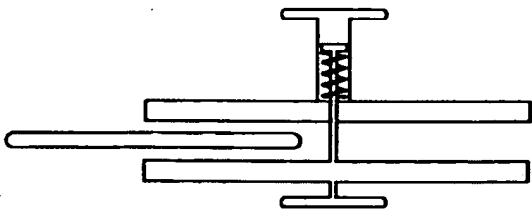


FIG. 28

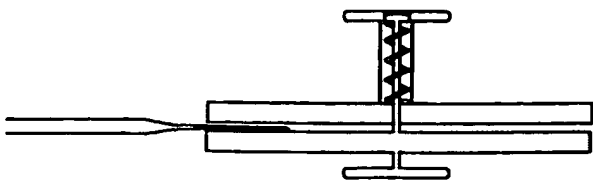


FIG. 29

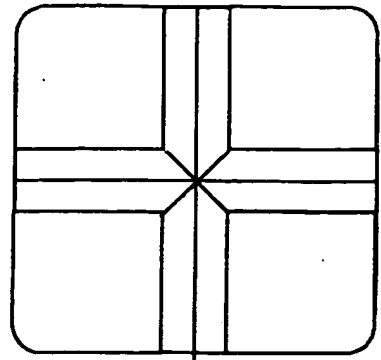


FIG. 30



FIG. 31



FIG. 32



FIG. 33



FIG. 34

Approved: *[Signature]* 2/9/2007

REPLACEMENT SHEET

Loose 2/12/00
Approved: [Signature]

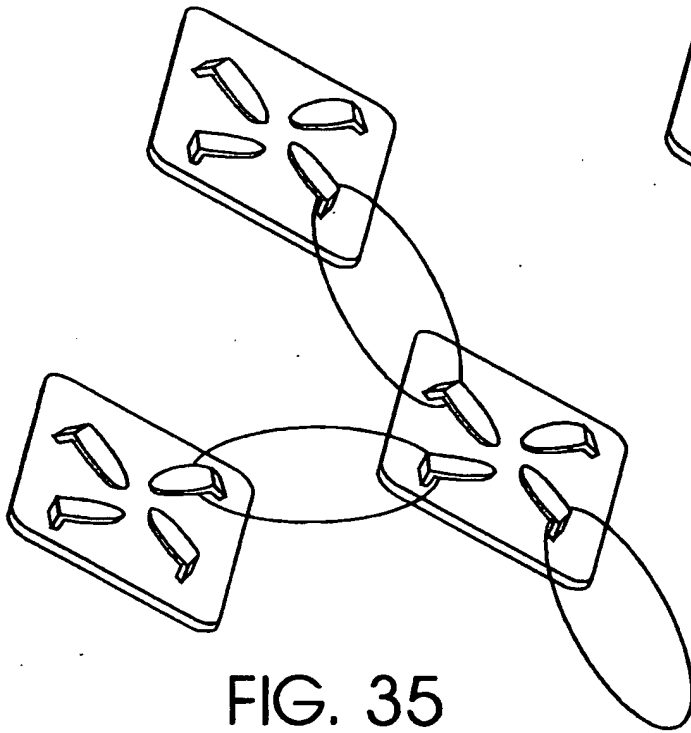


FIG. 35

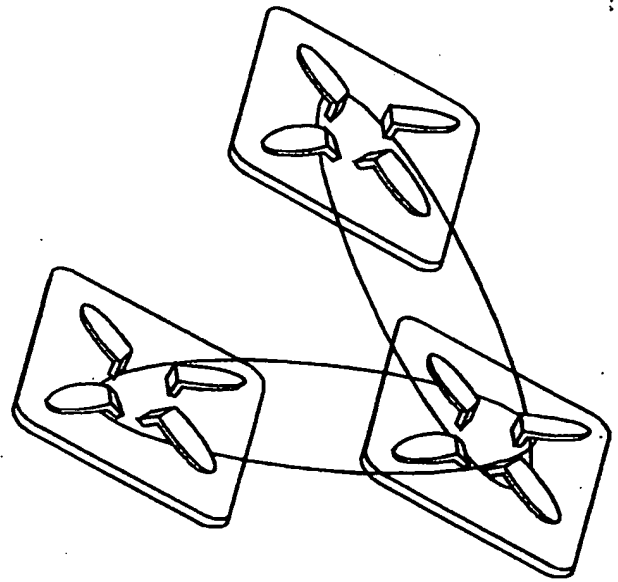


FIG. 36

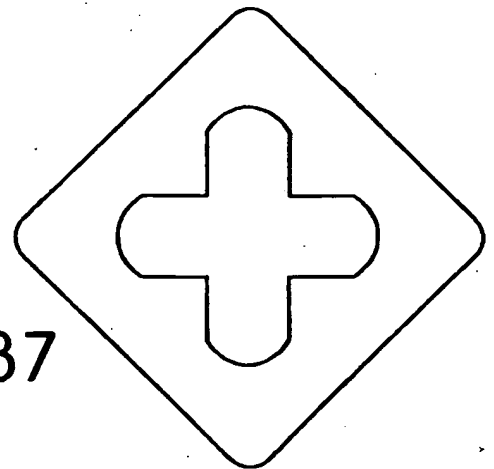


FIG. 37

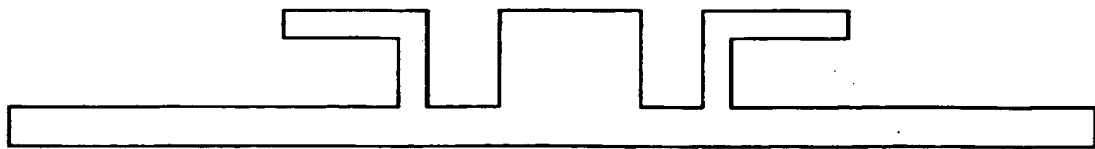


FIG. 38

REPLACEMENT SHEET

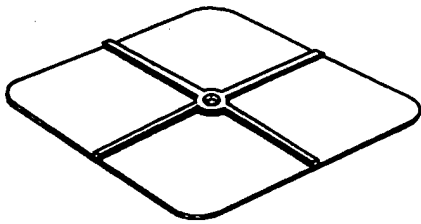


FIG. 39

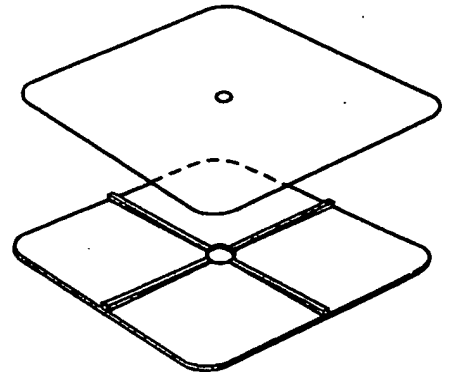
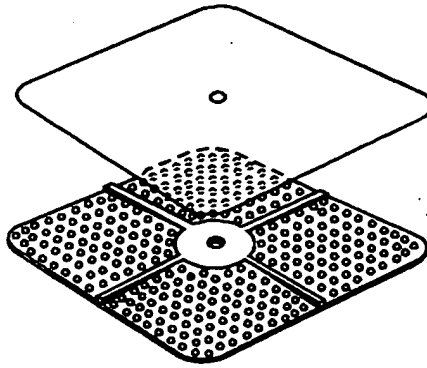


FIG. 42

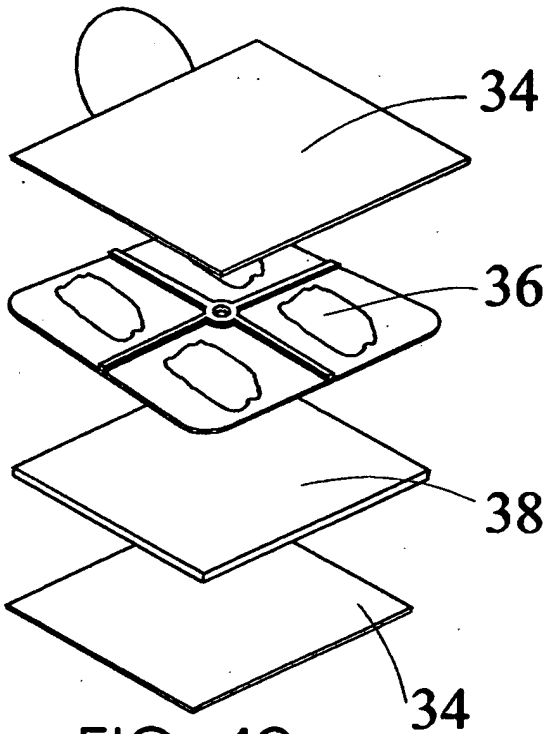


FIG. 40

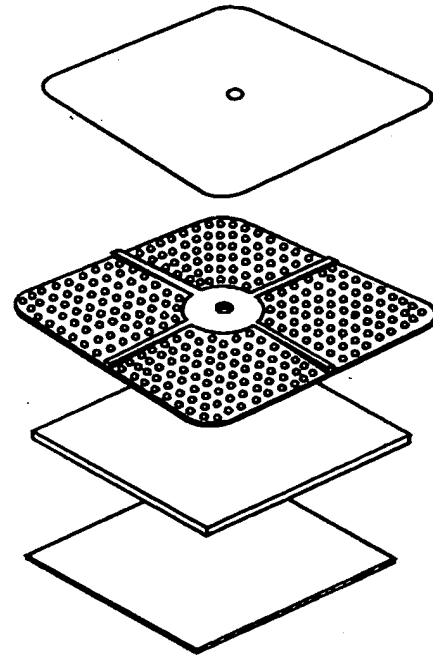


FIG. 43

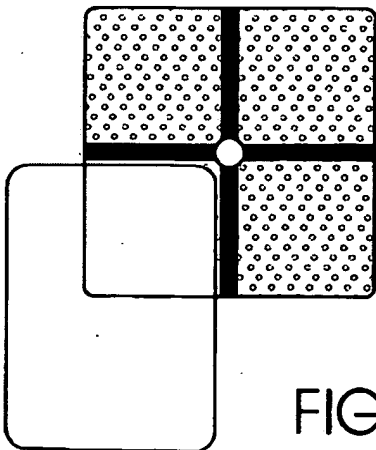


FIG. 41

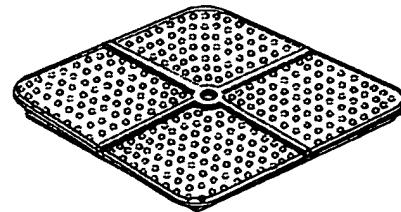


FIG. 44

Approved by *[Signature]* 2/6/2007

REPLACEMENT SHEET

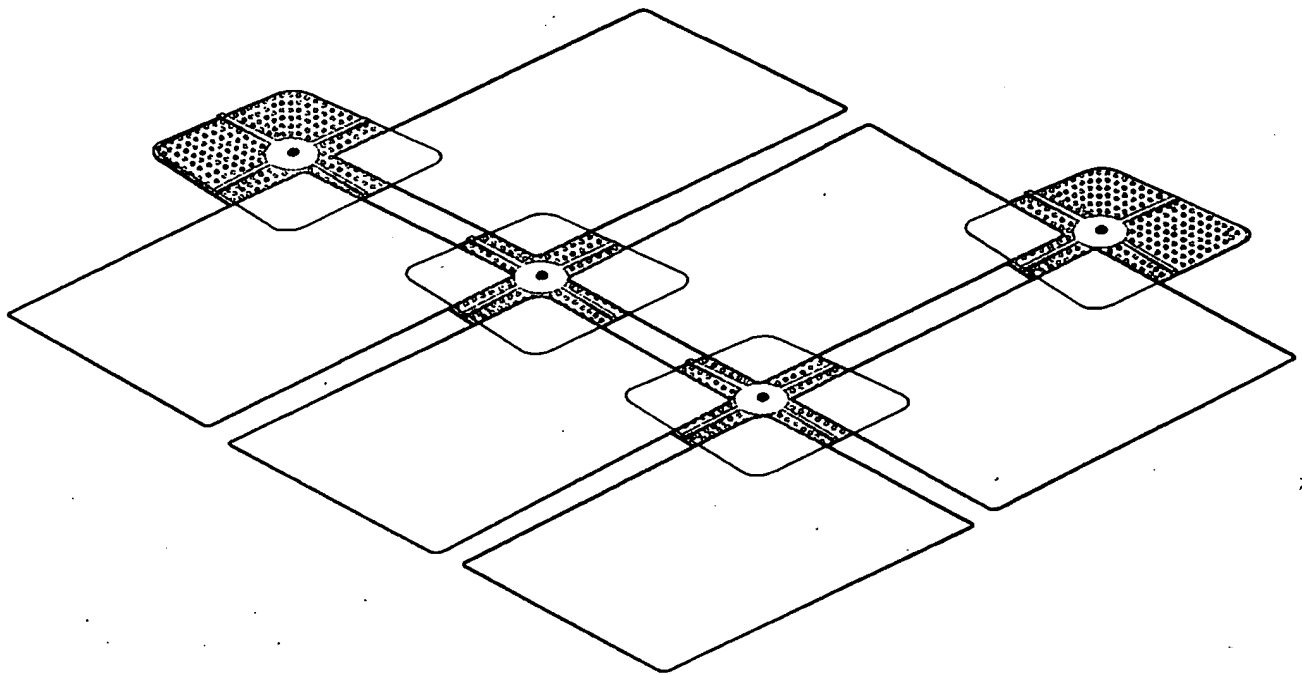


FIG. 45

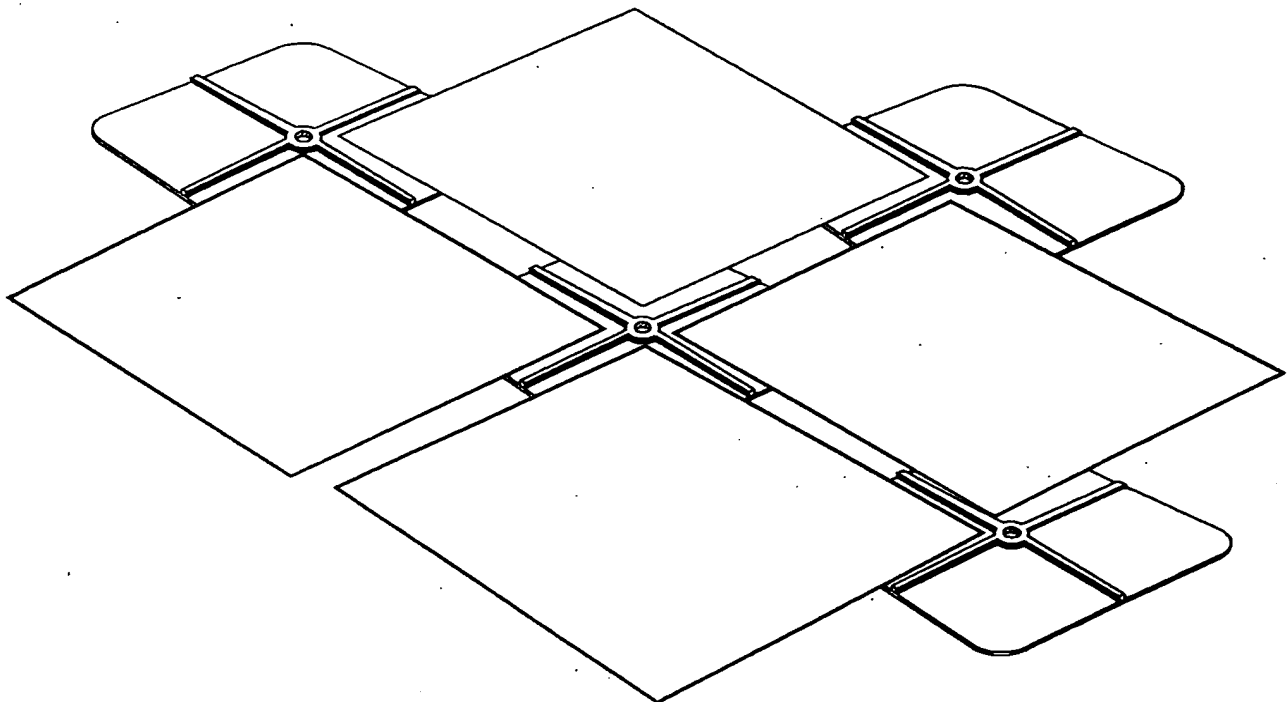


FIG. 46

Approved: *[Signature]* 2/2/2000

REPLACEMENT SHEET

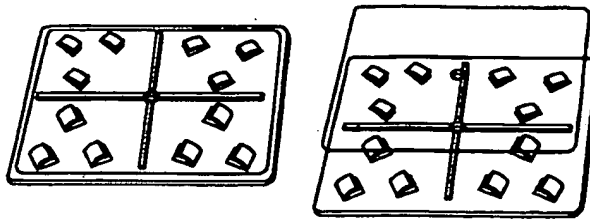


FIG. 47

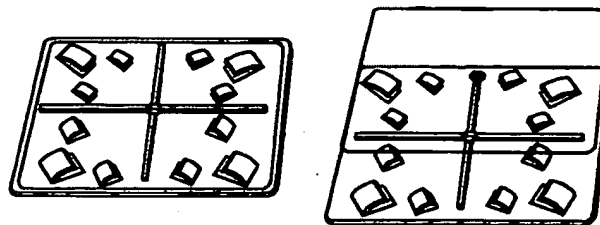


FIG. 48

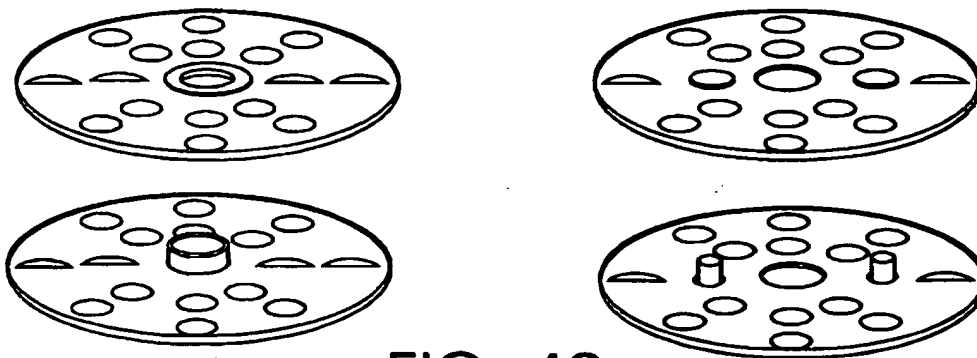


FIG. 49

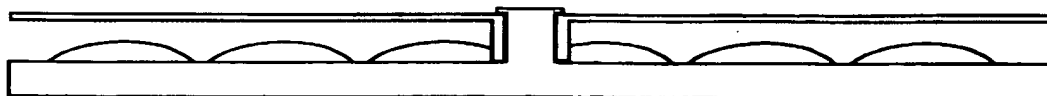


FIG. 50

Approved: *[Signature]*, 2/7/2007

REPLACEMENT SHEET

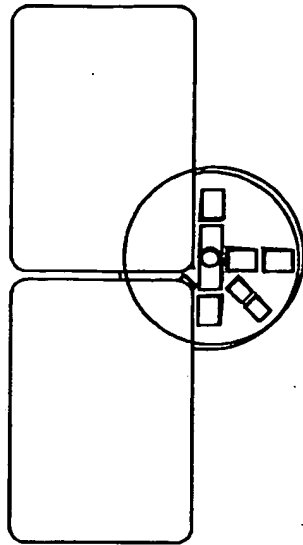


FIG. 51

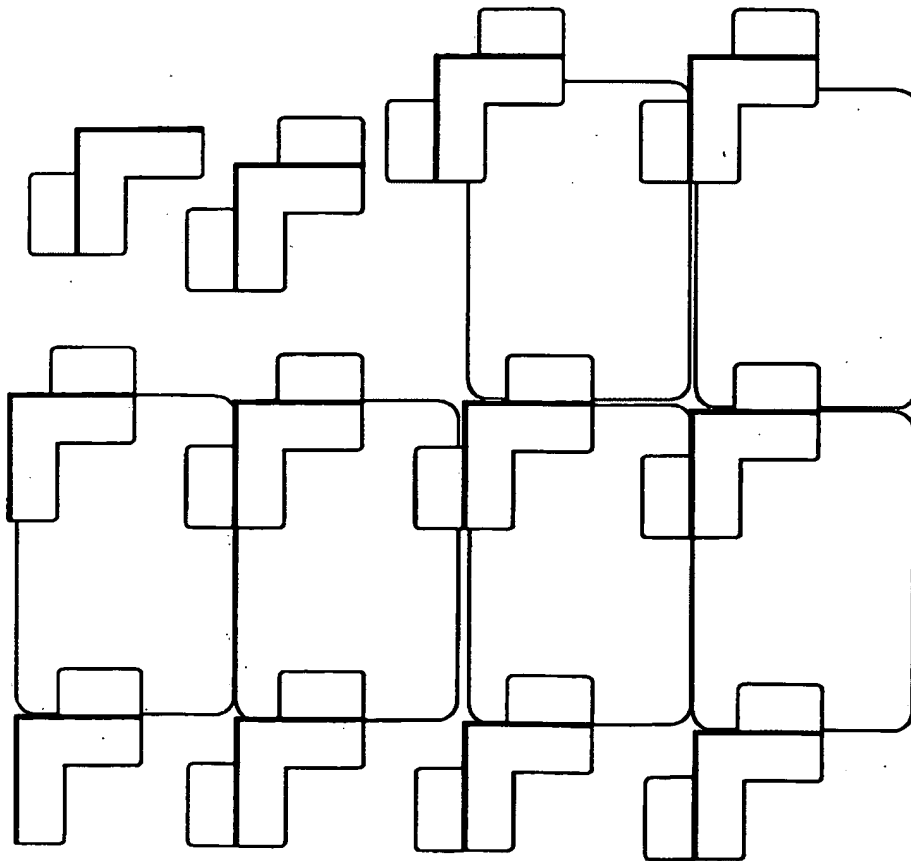


FIG. 52

Approved: R. H. G. 12/19/2007

REPLACEMENT SHEET

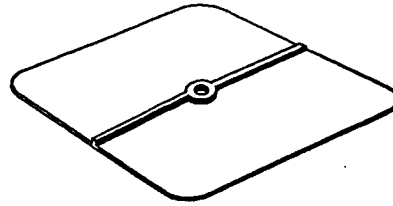


FIG. 53

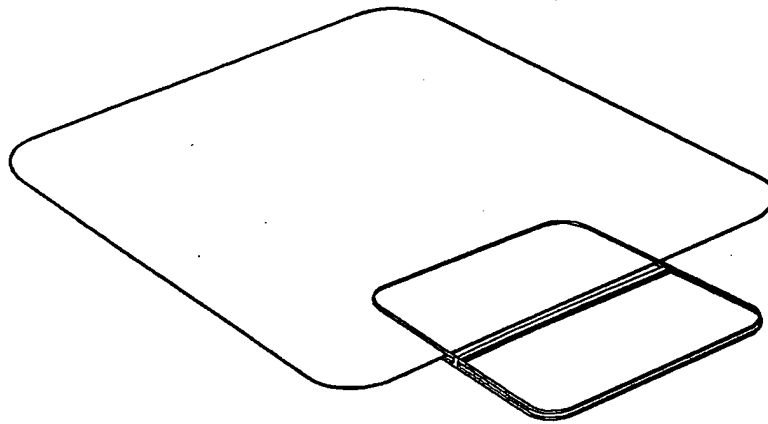


FIG. 54

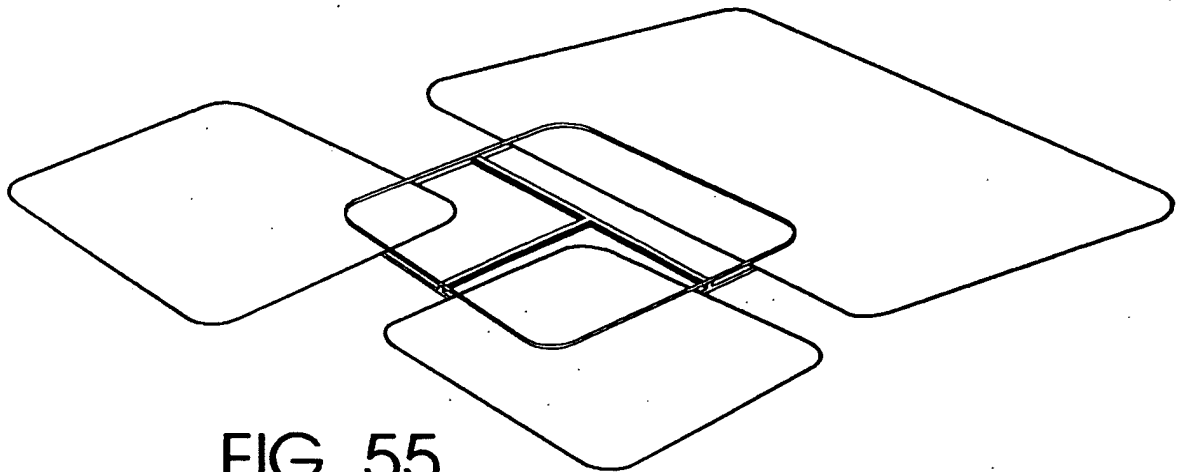


FIG. 55

Approved by Authority 2/18/2007

REPLACEMENT SHEET

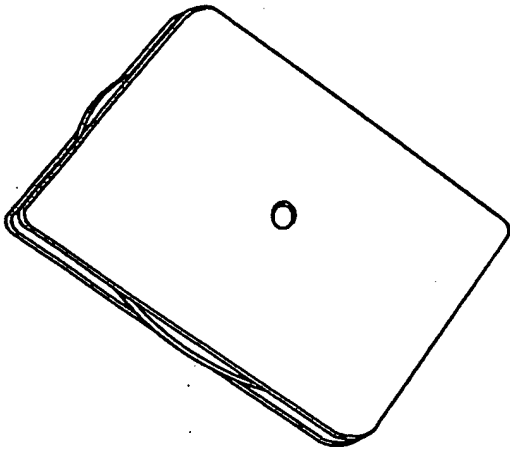


FIG. 56

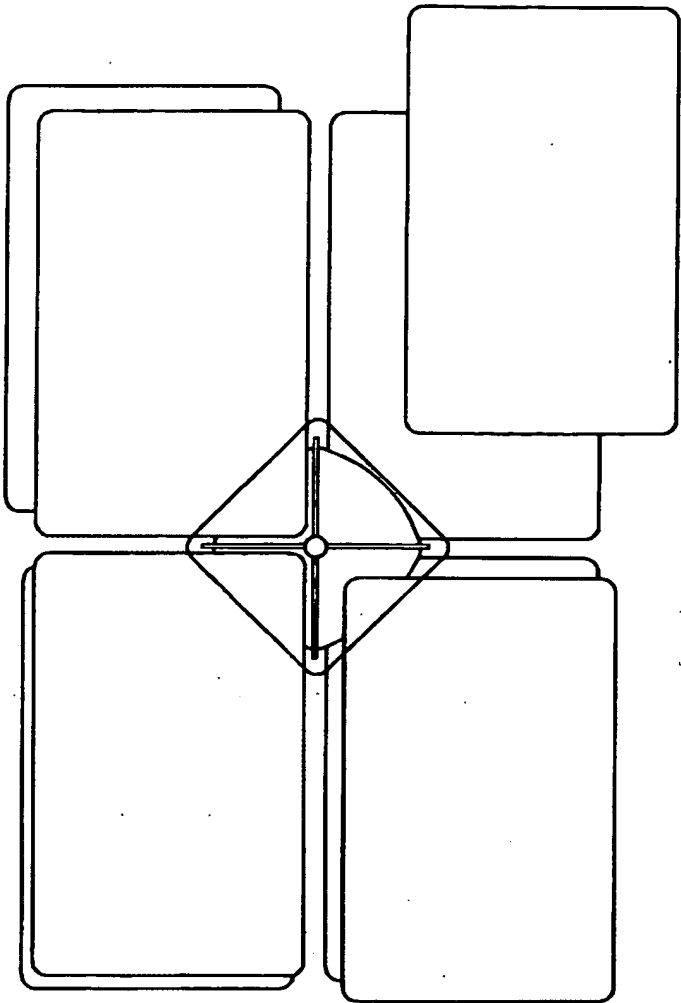


FIG. 57



FIG. 58

Approved: *[Signature]* 2/9/2007